

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, FEBRUARY 28, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:11 p.m. Mayor Murphy recessed the meeting at 3:15 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:30 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 4:46 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:52 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 5:45 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:52 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 7:27 p.m. into Closed Session in the twelfth floor Committee Room to discuss existing and pending litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (ek)

FILE LOCATION: MINUTES



ITEM-1:

ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Reverend Daron Matson of
Mid-City Nazarene Church.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES



ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

01/24/2005
01/25/2005
01/25/2005 – Special Meeting
01/31/2005
02/01/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:14 p.m.)

MOTION BY ATKINS TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-31: Nghiep Le Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-837) ADOPTED AS RESOLUTION R-300143

Recognizing the vital services, that Nghiep Le has provided the citizens of San Diego;

Proclaiming February 28, 2005, to be “Nghiep Le Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:19 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

CLOSED SESSION:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 *Engelhorn v. City of San Diego*
Claim No. LP04-7773-2958

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

DCA McGuinness

This matter arises from a sewer backup that damaged the claimant's house. In closed session, the City Attorney will brief the Mayor and City Council on the matter and discuss possible settlement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:08 p.m. – 7:08 p.m.)

CS-2 *Mesa, et al. v. City of San Diego*
Claim No. LP03-0705-0649

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

DCA McGuinness

This matter arises from a water main break which caused property damage to a home in North Park. In closed session, the City Attorney will brief the Mayor and City Council on the matter and discuss possible settlement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:08 p.m. – 7:08 p.m.)

CS-3 *County of San Diego County Taxpayers Association v. City of San Diego*
San Diego Superior Court No. GIC 841487

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

DCA McGrath

This matter involves a lawsuit against the City seeking to invalidate that agreement known as “Manager’s Proposal II”, between the City and the Retirement Board. In closed session the City Attorney will brief the City Council on the matter and make appropriate recommendations for proceeding.

CLOSED SESSION PUBLIC TESTIMONY:

CLOSED SESSION COMMENT-1:

Dick Wilken urged the City Council to seriously consider the Tax Payers Association lawsuit and that the City should provide a vigorous defense to the lawsuit.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:08 p.m. – 7:10 p.m.)

CS-4 *SDCERS v. Michael Aguirre, et al.*
San Diego Superior Court No. GIC 841845

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

DCA McGrath

This matter involves a lawsuit against the City and the City Attorney seeking a declaration and injunctive relief as to the rights of the Retirement System and its Board of Administration with respect to the provisions of legal advice and the role of the City

Attorney, and the ownership on control of certain documents. In closed session the City Attorney will advise the City Council on the matter and make appropriate recommendations for proceeding.

CLOSED SESSION PUBLIC TESTIMONY:

CLOSED SESSION COMMENT-1:

Dan Beeman commented on the lawsuit against City Attorney Michael Aguirre and the circumstances surrounding the Pension Fund.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:11 p.m. – 7:13 p.m.)

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-5 Torrey Pines Trademark

THIS MATTER WAS RETURNED TO THE CITY ATTORNEY

DCA assigned: Edmonson

This matter involves potential litigation against the Lodge at Torrey Pines related United States Patent and Trademark Office Registration Number 2,335,620 of the trademark *TORREY PINES*. In closed session the City Attorney will advise the City Council on the City's options with respect to initiation of litigation.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:11 p.m. – 7:11 p.m.)

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation,
pursuant to California Government Code section 54956.9(b):**

**CS-6 In the matter of City of San Diego Bond Offerings, Securities & Exchange
Commission No. LA-2842, and United States Attorney's Office Investigation
into certain City of San Diego Financial Disclosure Matters.**

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

ACA assigned: Aguirre

These matters involve investigations by the SEC and the U.S. Attorney's Office into certain financial matters of the City. In closed session, the City Attorney will report on the status of these matters and discuss possible resolutions of the SEC's investigation with respect to the City of San Diego only.

CLOSED SESSION PUBLIC TESTIMONY:

CLOSED SESSION COMMENT-1:

Dan Beeman commented on the matter of the San Diego Bond offerings and the Security and Exchange Commission's investigation into the City of San Diego's financial disclosure.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:14 p.m. – 7:16 p.m.)

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-7 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

THIS MATTER WAS RETURNED TO THE CITY ATTORNEY

Employee organizations: Municipal Employees Association, Local
127 AFSCME, AFL-CIO, Local 145

International Association of Firefighters
AFL-CIO, San Diego Police Officers
Association

HDCA assigned: Morris

In closed session, the City's negotiating team will review with the City Council the City's anticipated position with respect to the upcoming meet and confer process. Topics to be discussed include, but are not limited to: 1) salaries and wages, 2) health benefit plans, and 3) retirement benefits, including the recommendations from the Pension Reform Committee. The City Manager and staff will request instructions from the City Council as to those matters.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:11 p.m. – 7:11 p.m.)

Conference with Legal Counsel, pursuant to Government Code section 54957:

CS-8 *Homeland Security*

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

DCA assigned: Linley

In closed session, the Office of Homeland Security will advise the Mayor and City Council of the City and region's risk profile, an assessment of our capabilities and needs, and our regional strategy to address our gaps and ensure our preparedness for all hazards.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:08 p.m. – 7:08 p.m.)

Public employment, pursuant to California Government Code section 54957(b)(1):

CS-9 Title: City Manager

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 1, 2005

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:08 p.m. – 7:08 p.m.)



ITEM-50: Three actions related to Amending the San Diego Municipal Code
Relating to Implementing the Right to Know Committee Recommendations.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 2/8/2005, Item S500.
(Council voted 9-0):

Subitem-A: (O-2005-95) ADOPTED AS ORDINANCE O-19357 (New Series)

Amending Chapter 2, Article 2, Division 1, of the San Diego Municipal Code by amending Section 22.0101, entitled "Permanent Rules of the Council" by amending Rule 30 relating to Preparation of the Council Agenda by adding new Rule 30.3, entitled "Noticing and Conduct of Closed Sessions."

Subitem-B: (O-2005-96) ADOPTED AS ORDINANCE O-19358 (New Series)

Amending Chapter 2, Article 2, Division 1, by amending Section 22.0101 by amending the Permanent Rules of the Council Rule 1, all relating to Hours of Meetings.

Subitem-C: (O-2005-98) ADOPTED AS ORDINANCE O-19359 (New Series)

Amending Chapter 2, Article 2, Division 1, of the San Diego Municipal Code by amending Section 22.0101, entitled "Permanent Rules of the Council" by amending Rule 8 and Rule 8.1, all relating to Non-Agenda Public Comment.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

MOTION BY FRYE TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES IN SUBITEMS A, B AND C. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-51: Amending the San Diego Municipal Code Relating to the Time for Hearing the Non-Agenda Public Comment.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 02/08/2005, Item S501, Subitem A. (Council voted 6-3. Councilmembers Atkins, Young, and Frye voted nay):

(O-2005-97A) RETURNED TO THE CITY ATTORNEY, WITH DIRECTION

Amending Chapter 2, Article 2, Division 1, of the San Diego Municipal Code by amending Section 22.0101, entitled "Permanent Rules of the Council" by amending Rule 8, all relating to Non-Agenda Public Comment.

This alternative Ordinance would require subject to the exercise of the Mayor's discretion for a given agenda, Non-Agenda Public Comment shall be docketed for the end of the Tuesday portion of the agenda.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:53 p.m. – 5:55 p.m.;
6:09 p.m. – 6:54 p.m.)

MOTION BY ZUCCHET TO RETURN TO THE CITY ATTORNEY AT THE REQUEST OF THE CITY ATTORNEY WITH DIRECTION FROM COUNCIL MEMBER ZUCCHET TO REJECT THE ITEM AND NOT APPROVE THE SECOND READING OF THE ORDINANCE. DIRECT THE CITY ATTORNEY TO DRAFT AN ORDINANCE TO HEAR NON AGENDA PUBLIC COMMENT FROM FIVE

PERSONS AT 10:00 A.M. TUESDAY MORNING WITH THE REMAINDER TO BE HEARD AT THE END OF THE MEETING. SPEAKERS WHO HAVE NOT ADDRESSED THE COUNCIL ON PREVIOUS MEETINGS WILL BE GIVEN PRIORITY FOR THE MORNING PORTION OF NON AGENDA PUBLIC COMMENT. THE REVISIONS ARE TO BE AS FOLLOWS FROM COUNCIL MEMBER ZUCCHET'S MEMO OF FEBRUARY 28, 2005:

EVERY AGENDA FOR A REGULAR COUNCIL MEETING SHALL PROVIDE A PERIOD ON THE AGENDA FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COUNCIL ON ITEMS OF INTEREST TO THE PUBLIC THAT ARE NOT ON THE AGENDA BUT ARE WITHIN THE JURISDICTION OF THE COUNCIL. SUBJECT TO THE EXERCISE OF THE MAYOR'S DISCRETION FOR A GIVEN AGENDA, NONAGENDA PUBLIC COMMENT SHALL BE ~~DOCKETED FOR 10:00 A.M. ON THE TUESDAY MORNING PORTION OF THE AGENDA.~~ HEARD FROM FIVE SPEAKERS AT 10:00 AM ON THE TUESDAY AGENDA WITH THE REMAINDER TO BE HEARD AT THE END OF THE MEETING. SPEAKERS WHO HAVE NOT ADDRESSED THE COUNCIL IN THE PREVIOUS THREE MEETINGS WILL BE GIVEN PRIORITY FOR THE MORNING PORTION OF NONAGENDA PUBLIC COMMENT.

ACCEPT COUNCIL MEMBER FRYE'S RECOMMENDATION THAT THE CITY ATTORNEY PREPARE AN ANALYSIS TO MAKE CERTAIN FINDINGS AS TO HOW THE NEWLY PROPOSED ORDINANCE SERVES THE PUBLIC INTEREST IN BOTH TIME AND MONEY. DIRECT THE CITY ATTORNEY TO PREPARE A RESPONSE TO MR. TERRY FRANK'S CONCERNS (LISTED BELOW) FROM CALIFORNIANS AWARE, REGARDING ARTICLE 1, SECTION 3(B) OF THE CALIFORNIA CONSTITUTION AND REGARDING PROPOSITION D, WHICH WAS ADOPTED BY THE PUBLIC:

1. THAT BY AMENDING THE SAN DIEGO MUNICIPAL CODE RELATING TO THE TIME FOR HEARING THE NON AGENDA PUBLIC COMMENT, COUNCIL SHOULD NOTE THAT THE CALIFORNIA CONSTITUTION WAS AMENDED BY THE PEOPLE AT THE NOVEMBER 2ND, 2004 GENERAL ELECTION, WHICH WAS ARTICLE 1, SECTION 3(B), WHICH PROVIDES IN PERTINENT PART THAT A STATUTE, COURT RULE OR OTHER AUTHORITY ADOPTED AFTER THE EFFECTIVE DATE OF THE SUBDIVISION THAT LIMITS THE RIGHT OF ACCESS, SHALL BE ADOPTED WITH FINDINGS DEMONSTRATING THE INTEREST PROTECTED BY THE LIMITATION AND THE NEED FOR PROTECTING THAT INTEREST;

2. THE PHRASE "FINDING" REFERS TO FACTUAL DETERMINATIONS, NOT SIMPLY EXPRESSIONS OF OPINION OR PREFERENCE. AND THE QUESTION IS: WHAT IS THE PUBLIC INTEREST TO BE PROTECTED?

Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-100: Two actions related to 252 Corridor Park Phase I North.

(Southeastern San Diego Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-787) ADOPTED AS RESOLUTION R-300144

Authorizing the City Manager to award the contract to Heffler Company, Inc., in an amount not to exceed \$1,157,719 for the construction of CIP-29-458.0, 252 Corridor Park Phase I North, Fund No. 38182, 2001 Urban Park Act;

Authorizing the City Auditor and Comptroller to return excess budgeted funds to the contributing funds.

Subitem-B: (R-2005-802) ADOPTED AS RESOLUTION R-300145

Stating for the record that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered prior to approving this project by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of 252 Corridor Park Phase I North;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

CITY MANAGER SUPPORTING INFORMATION:

252 Corridor Park Phase I North is located in the Southeastern San Diego community. This project provides for a new 2.72 acre neighborhood park in northern side of the former State Route 252 corridor. The proposed amenities include a play area, comfort station, turf and landscaping, picnic shelter and tables, fitness stations, security lighting and parking lot. These improvements compliment the project recently completed by the Planning Department to Chollas Creek and the southern side of the corridor. Similarly, this project adheres to the Chollas Creek Enhancement Program.

On September 23, 2004, four bids were received. Heffler Company, Inc. was the lowest responsible and reliable bidder. The base bid of \$998,000 was over the advertised estimate of \$900,000, however the base bid plus all alternatives of \$1,157,719 was under the engineer's estimate of \$1,962,663. This action authorizes the City Manager to enter into a construction contract with Heffler Company, Inc., in the amount of \$1,157,719.

A grant application was submitted for this project and approved by Council via Resolution Number R-298701. In October 2004, The California Department of Parks and Recreation announced recipients of competitive grants from the Urban Park Act of 2001 grant program. The City received an award of \$2,500,000 for this project. A grant contract has been fully executed. The South East Development Corporation also contributed \$500,000 towards this project. Funding in excess of the project estimate for Phase I will contribute toward a future Phase II project. Phase II would include a pedestrian bridge over the existing Chollas Creek. The pedestrian bridge would provide access to the north and south sides of the park.

FISCAL IMPACT:

The total project cost is \$1,871,158. Funding is available in the above referenced sources. Funding for maintenance of this new facility has been programmed in current Fiscal Year 2006.

Herring/Oppenheim/AP

Aud. Cert. 2500727.

Staff: A. Penner/K. Rodgers - (619) 525-8223/(619) 235-5242

FILE LOCATION: CONT-Heffler Company, Inc.; W.O. 294580

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- * ITEM-101: Two actions related to Change Order No. 1 - Reconstruction of Tennyson/Sterne Streets for Utility Undergrounding.

(Peninsula Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-823) ADOPTED AS RESOLUTION R-300146

Approving Change Order No. 1, dated August 20, 2004, issued in connection with the contract between The City of San Diego and Scheidel Contracting, Inc., and the changes therein set forth, amounting to a net increase in the contract price of \$630,000;

Authorizing the City Auditor and Comptroller to appropriate and expend up to \$1,265,000 from Fund 30301, CIP-37-028.0, Undergrounding of City Utilities, for the purposes of utility undergrounding construction, engineering, and related expenses;

Authorizing the City Auditor and Comptroller to accept up to \$1,265,000 in reimbursement from SDG&E to the Underground Surcharge Fund 30301;

Authorizing the City Manager to execute additional change orders with Scheidel Contracting Inc., in a cumulative amount not to exceed \$545,000 for the sole purpose of undergrounding SDG&E utilities during the course of construction on the Project.

Subitem-B: (R-2005-824) ADOPTED AS RESOLUTION R-300147

Stating for the record that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is

determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Reconstruction of Tennyson/Sterne Streets for Utility Undergrounding; Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

CITY MANAGER SUPPORTING INFORMATION:

On January 7, 2003, the Council authorized (RR-297507) the reconstruction of Tennyson and Sterne Streets (Sewer and Water Group Job 637B) in Point Loma, due to damage from the several sewer, water, and other previous utility projects. This project provides for the replacement of the pavement between Chatsworth Street and Willow Street, including curbs, gutters, sidewalks, and driveway approaches. The project also included a bid alternative option for the undergrounding of overhead utilities. Subsequent to this, bids were received and the construction contract was awarded to Scheidel Contracting and Engineering. However, since an undergrounding district had not been established at the time the contract was awarded, the option for including the utility undergrounding portion of the work was not utilized. On September 7, 2004, the Council authorized (RR-299609) the creation of a utility undergrounding district for this area. This allows for the reimbursement of most of the undergrounding costs from SDG&E, as part of the 20A program.

This action will provide for the undergrounding of overhead utilities in the project area concurrent with the current street reconstruction work, in order to avoid future damage to the newly installed pavement. All of the undergrounding work under Contract Change Order No. 1 was competitively bid as part of the original advertisement package.

FISCAL IMPACT:

The total estimated cost of this project is \$3,065,000. Of this, \$1,800,000 has been previously authorized from sewer and water funds. Funds for this action in the amount of \$1,265,000 are available from Fund 30101, CIP-37-028.0, Undergrounding of City Utilities. It is anticipated that any funds expended will be reimbursed by SDG&E through the 20A program, after acceptance of the work. No other funds are required for this action. The contingency funds requested are necessary to cover design changes requested by SDG&E since the project was bid.

Mendes/Boekamp/PJ

Staff: Richard Leja – (619) 533-3764

FILE LOCATION: CONT-Scheidel Contracting, Inc.; W.O. 187421

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- * ITEM-102: Memorandum of Understanding (MOU) with the San Diego County Water Authority for the City of San Diego's Landscape Water Conservation Programs.

(See City Manager Report CMR-05-004.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-693) ADOPTED AS RESOLUTION R-300148

Authorizing the City Manager to execute a three-year Memorandum of Understanding (MOU) with the San Diego County Water Authority (CWA), to continue to secure program co-funding for the commercial landscape survey program and to pass-through funding from the Metropolitan Water District of Southern California and the Department of Water Resources for additional landscape services for Water Department customers;

Authorizing the City Auditor and Comptroller to deposit funds received from the CWA for the purpose of providing funds for the above program.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/9/2005, NR&C voted 3 to 0 to (accept the City Manager's report) to authorize the City Manager to enter into a 3-year Memorandum of Understanding (MOU) with the County Water Authority to secure co-funding and pass-through funding for the Commercial Landscape Survey Program (CLSP); and authorize the City Auditor and Comptroller to deposit funds received from the California Water Authority (CWA) for Landscape Water Conservation Programs .

(Councilmembers Atkins, Maienschein, and Frye voted yea. Councilmembers Young and Madaffer not present.)

Staff: Luis Generoso – (619) 533-5258

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-103: Drainage Easement Vacation in a Portion of Pueblo Lot 1119.

(Mission Valley Community Area. District 6.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-826) ADOPTED AS RESOLUTION R-300149

Vacating the drainage easement located within a portion of Pueblo Lot 1119, to unencumber this property and facilitate development of the site, under the procedure for the summary vacation of public service easements, California Streets and Highways Code Section 8330, et. seq.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate an unneeded drainage easement in a portion of Pueblo Lot 1119 as shown on Engineering Drawing No. 20209-B. This site is located in the Mission Valley Community Plan area, northwesterly of Hotel Circle North and I-163 in Council District 6.

The drainage easement was previously used for a concrete lined drainage channel that is the outfall for a box culvert that passes beneath Hotel Circle North. As part of the Presidio View Project, a newly constructed triple box culvert as shown on Engineering Drawing 32777-D will

connect to the existing box culvert thus rendering the existing culvert and easement obsolete. The easement being vacated was acquired at no cost to the City and the City has no fee interest.

Staff recommends approval of this action.

FISCAL IMPACT:

None.

Loveland/Broughton/GRB

Staff: Geraldine Bollenbach – (619) 446-5417

FILE LOCATION: DEED F-9886

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-104: Parcel Map W.O. No. 421267 and Sewer Easement Vacation.

(Black Mountain Ranch Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-825) ADOPTED AS RESOLUTION R-300150

Approving parcel map W.O. No. 421267, being a lot line adjustment of Lots 1 and "A" of Black Mountain Ranch Unit No. 10, in the City of San Diego, County of San Diego, State of California according to Map thereof No. 14179;

Declaring that the sewer easement granted to the City of San Diego per Map No. 14179 recorded March 29, 2001, is not shown within the Parcel Map because they are vacated pursuant to Section 66445 (J) of the Subdivision Map Act.

CITY MANAGER SUPPORTING INFORMATION:

This 21.376-acre map proposes a lot line adjustment between two lots in Black Mountain Ranch Unit No. 10. This parcel map is located in the Black Mountain Ranch Community Plan area, southwesterly of Camino Ruiz and San Dieguito Road in Council District 1. This map requires City Council approval because a portion of sewer easement is being vacated on the map.

One of the resulting parcels of this parcel map will be deeded to the City for park purposes. The lot line adjustment was at the request of the City Park and Recreation Department because Park and Rec. does not want an existing sewer easement within park boundaries. The result of this map is that the sewer easement will be on non-City owned land. In addition to adjusting the lot line to remove the sewer easement from park property, the terminus of the easement is being changed from a hammerhead turn-around configuration to a circular bulb turn-around. The vacation of the hammerhead portion of the easement requires Council approval. The sewer easement being vacated was granted on the Final Map of Black Mountain Ranch Unit No.10 Map No. 14719. Staff has determined that the revised map is consistent with all previously approved permits. This lot line adjustment map does not create any new lots or allow for greater development density. Therefore, there is no expected traffic impact. There are no park fees due in connection with this project.

Frazier/Halbert/GRB

Staff: Geraldine Bollenbach – (619) 446-5417

FILE LOCATION: DEED F-9887

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-105: Transfer of Funds for the Highland Ranch Neighborhood Park Comfort Station Project.

(Carmel Mountain Ranch Community Area. District 5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-662) ADOPTED AS RESOLUTION R-300151

Authorizing the City Auditor and Comptroller to transfer funds in the amount of \$10,000, from CIP-29-586.0, Forest View Mini-Park Play Area Upgrade, to CIP-29-858.0, Highland Ranch Comfort Station within Fund No. 38125, 2000 Park Bond per Capita funding;

Authorizing the City Auditor and Comptroller to transfer funds in the amount of \$10,000 from CIP-29-588.0, Semillon Mini-Park Play Area Upgrade, to CIP-29-858.0, Highland Ranch Comfort Station within Fund No. 38124, 2000 Park Bond per Capita funding;

Authorizing the City Auditor and Comptroller to appropriate and expend \$20,000 from CIP-29-858.0, Highland Ranch Comfort Station, to supplement funding previously authorized by Council Action.

CITY MANAGER SUPPORTING INFORMATION:

Highland Ranch Neighborhood Park is located at the corner of Eastbourne Road and Highland Ranch Road, in the Carmel Mountain Ranch Community Planning Area. The project scope includes the installation of a pre-fab comfort station, new sewer, electrical and water lines to the comfort station and ADA upgrades to the parking lot, path of travel and drinking fountain. Bids for the work have been received and are 10% over the Engineer's estimate, therefore an additional \$20,000 is required to fully fund the project.

FISCAL IMPACT:

The total project cost is \$215,252, of which funding in the amount of \$10,000 will be transferred from CIP-29-586.0, Forest View Mini-Park Play Area Upgrade, Fund No. 38125, and funding in the amount of \$10,000 will be transferred from CIP-29-588.0, Semillon Mini-Park Play Area Upgrade, Fund No. 38124, to supplement funding previously authorized for CIP-29-858.0, Highland Ranch Neighborhood Park Comfort Station. These two Play Area Upgrade projects will be completed under budget and surplus funds are available for transfer.

Herring/Oppenheim/AP

Aud. Cert. 2500607.

Staff: Robin Shifflet – (619) 533-3894

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-106: Expenditure of TransNet Funding for Seven Bicycle/Pedestrian Improvement Projects.

(College, Kensington, La Jolla, Mira Mesa, Mission Bay Park, Otay Mesa, Sorrento Valley, Southeastern San Diego, and Via de la Valle Reserve Community Areas.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-684) ADOPTED AS RESOLUTION R-300152

Authorizing the City Manager to accept, appropriate, expend and to take all necessary actions to secure \$1,190,722 in Transportation Development Act/Local Transportation Funds (TDA/LTF), Fund No. 390068, and \$142,000 in TransNet Bikeway Funds, Fund No. 30301, from SANDAG for seven bicycle/pedestrian improvement projects, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to establish special interest-bearing account Fund No. 390068 for SANDAG Fiscal Year 2005 claim 375 funds;

Authorizing the City Auditor and Comptroller to add CIP-58-179.0, 54th Street and Euclid Avenue Bike Lanes and Route from Trojan Avenue to Market Street; CIP-58-181.0, Fairmount Avenue/Camino Del Rio South Traffic Signal and Striping Modifications; CIP-58-182.0, Beyer/East Beyer Boulevard Bikeway Project from Dairy Mart Road to San Ysidro Boulevard, to Fiscal Year 2005 Capital Improvements Program;

Authorizing the City Auditor and Comptroller to increase by \$1,190,722 in the Fiscal Year 2005 Capital Improvements Program (CIP) budget in Fund No. 390068, TDA funds for: CIP-52-717.0, Bird Rock Coastal Traffic Flow Improvements on La Jolla Boulevard from Colima Street to Camino de La Costa - \$400,000 (La Jolla/District 1); CIP-58-077.0, Via de la Valle widening for bike lanes from El Camino Real (west) to San Andreas Drive - \$358,722 (Via de La Valle Reserve/District 1); CIP-58-147.0, Rose Creek Bicycle Path and Pedestrian Bridge over Rose Creek Inlet from Pacific Beach Drive to Mission Bay Drive - \$150,000 (Mission Bay Park/Districts 2 & 6); CIP-58-179.0, 54th Street and Euclid Avenue Bike Lanes and Bike Route from Trojan Avenue to Market Street - \$130,000 (Southeastern San Diego/District 4); CIP-58-181.0, Fairmount Avenue/Camino del Rio South Traffic Signal and Striping Modifications to the intersection - \$86,000 (College-Kensington/Districts 3 & 7); CIP-58-182.0, Beyer/East Beyer Boulevard Bikeway Project from Dairy Mart Road to San Ysidro Boulevard \$66,000 (Otay Mesa/District 8);

Authorizing the City Auditor and Comptroller to increase by \$142,000 in the Fiscal Year 2005 CIP Budget Fund No. 30301, TransNet Bikeway Funds, in CIP-58-157.0, Vista Sorrento Parkway widening for bike lanes from Lusk Boulevard to Sorrento Valley Boulevard - \$142,000 (Sorrento Valley & Mira Mesa/Districts 1 & 5);

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,190,772 from the following CIPs: CIP-52-717.0, Bird Rock Coastal Traffic Flow Improvements on La Jolla Boulevard from Colima Street to Camino de La Costa, Fund 390068, TDA funds - \$400,000 for the purpose of designing and constructing pedestrian improvements; CIP-58-077.0, Via de la Valle Widening from El Camino Real (west) to San Andreas Drive, Fund 390068, TDA funds - \$358,722 for the purpose of widening the roadway to add bike lanes; CIP-58-147.0, Rose Creek Bicycle Path and Pedestrian Bridge over Rose Creek Inlet from Pacific Beach Drive to Mission Bay Drive, Fund 390068, TDA funds - \$150,000 for the purpose of designing the bridge and bike path; CIP-58-179.0, 54th Street and Euclid Avenue Bike Lanes and Bike Route from Trojan Avenue to Market Street, Fund 390068, TDA funds - \$130,000 for

the purpose of installing bike lanes and bike route; CIP-58-181.0, Fairmount Avenue/Camino del Rio South Traffic Signal and Striping Modifications, Fund 390068, TDA funds - \$ 86,000 for the purpose of restriping the intersection to better accommodate bicycles; CIP 58-182.0, Beyer/East Beyer Boulevard Bikeway Project, Fund 390068, TDA funds - \$66,000, for the purpose of installing bike lanes from Dairy Mart Road to San Ysidro Boulevard, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount no to exceed \$142,000 from CIP-58-157.0, Vista Sorrento Parkway Widening, Fund No. 30301, TransNet funds - \$142,000, for widening the road to install bike lanes from Lusk Boulevard to Sorrento Valley Boulevard, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller is authorized, upon advice of the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego applied to SANDAG for funding for fourteen bicycle and pedestrian improvement projects. The geographical locations of those proposed projects were throughout the City and in each Council district. SANDAG approved \$1,190,722 in Transportation Development Act/Local Transportation Funds (TDA/LTF) and \$142,000 in TransNet Bikeway Funds (a total of \$1,332,722) for seven of the fourteen projects. This will fund various project design studies, cost estimates, and bike lane striping/signing. The projects to be funded are:

CIP-52-717.0: Bird Rock Coastal Traffic Flow Improvements in the Bird Rock area of La Jolla from Colima Street to Camino de La Costa - \$400,000 (La Jolla/District 1);

CIP-58-077.0: Via de la Valle widening for bike lanes from El Camino Real (West) to San Andreas Drive - \$358,722 (Via de la Valle Reserve/District 1);

CIP-58-157.0: Vista Sorrento Parkway widening for bike lanes from Lusk Boulevard to Sorrento Valley Boulevard - \$142,000 (Sorrento Valley & Mira Mesa/Districts 1 & 5);

CIP-58-147.0: Rose Creek Bicycle Path and Pedestrian Bridge over Rose Creek Inlet from Pacific Beach Drive to Mission Bay Drive - \$150,000 (Mission Bay Park/Districts 2 & 6);

CIP-58-179.0: 54th Street and Euclid Avenue Bike Lanes and Bike Route from Trojan Avenue to Market Street - \$130,000 (Southeastern San Diego/District 4);

CIP-58-181.0: Fairmount Avenue/Camino del Rio South Traffic Signal and Striping Modifications to the intersection - \$ 86,000 (College & Kensington/Districts 3 & 7); and
CIP-58-182.0: Beyer/East Beyer Boulevard Bikeway Project from Dairy Mart Road to San Ysidro Boulevard - \$66,000 (Otay Mesa/District 8).

Council action is required to approve the application for funding, to accept the funds, and to authorize their expenditure. Staff will be resubmitting the unapproved projects and others when SANDAG requests applications in the future.

FISCAL IMPACT:

Accepting a total of \$1,332,722 (\$1,190,722 in TDA/LTF funds and \$142,000 in TransNet Bikeway Funds) from SANDAG.

Mendes/Boekamp/DZ

Staff: Larry Van Wey – (619) 533-3005

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:40 p.m. – 2:43 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-107: Additional Funding for the Via de la Valle Bikeway Project.

(Carmel Valley, NCFUA Subarea II Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-844) ADOPTED AS AMENDED AS RESOLUTION R-300153

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$375,000 in TransNet, Fund 30300, from CIP-52-471.0, North Torrey Pines Genesee Project, to CIP-58-077.0, Via de la Valle Bikeway Project;
Authorizing the City Auditor and Comptroller to accept, appropriate, and expend an amount not to exceed \$250,000 from Fund 63022 of private contributions from Black Mountain Ranch, LLC, for the construction of CIP-58-077.0, Via de la Valle Bikeway Project, contingent upon receipt of said private contribution funds and provided that the City Auditor and Comptroller first furnishes a certificate that demonstrates that said funds are on deposit in the City Treasurer;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvements Budget for CIP-58-077.0, Via de la Valle Bikeway Project, by \$250,000, Fund 63022;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$375,000 from TransNet, Fund 30300 for the construction of CIP-58-077.0, Via de la Valle Bikeway Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, from CIP-58-077.0, Via de la Valle Bikeway Project, to CIP-52-517.0, Carmel Valley Road Enhancement Project.

CITY MANAGER SUPPORTING INFORMATION:

The Via de la Valle Bikeway Project will provide a 5-foot-wide Class II bike lane on both sides of Via de la Valle from San Andreas Drive to El Camino Real, which comprises a length of approximately 1.1 miles. If sufficient funds are not available, the project includes a provision for reduction to a Class III bike lane for a portion of the length.

Specific improvements necessary to construct this bike lane include the following: addition of new pavement sections, removal of slope wash material adjacent to the roadway, installation of decorative rock walls to mitigate for potential rock falls, and traffic striping the existing roadway. Following the bid opening and award process, if funds are available, new curb, gutter and sidewalk will be included.

The project was originally advertised on April 22, 2004 and seventeen (17) bid packages were issued to the prospective bidders. On the bid opening date of May 27, 2004, only two (2) bid

packages were received. The apparent bid low bid of \$979,132, was \$354,921 (34%) over the engineer's estimate of \$624,211. Based on the engineer's estimate and an evaluation of the bid information, the bids were rejected. Changes were made to the improvement plans and specifications that have resulted in a moderate reduction of the estimated construction costs. However, due to the rising cost of materials and other factors, additional funding is still required to cover this anticipated shortfall. Because this project overlaps with a portion of a future development requirement, Black Mountain Ranch, LLC has offered to contribute, in advance of their obligation, a portion of the additional funding necessary. The balance of the additional funds needed has been identified in a completed project (North Torrey Pines Road and Genesee Avenue Intersection). These additional funds are necessary for the current SANDAG TransNet Bikeway funds to be retained.

FISCAL IMPACT:

The total cost of the project is \$1,834,950.33, including design and construction. Of this amount, \$1,209,950.33 has been previously approved, including \$1,009,950.33 of TransNet Bikeway funds allocated by SANDAG for this project. Of the remaining \$625,000 required for the project, \$375,000 is available from TransNet, Fund 30300, CIP-52-471.0, North Torrey Pines Road and Genesee Avenue Intersection, and \$250,000 will be available upon receipt of the private contributions from Black Mountain Ranch, LLC.

Mendes/Boekamp/DZ

Aud. Cert. 2500689.

Staff: Richard Leja – (619) 533-3764

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:40 p.m. – 2:43 p.m.)

MOTION BY PETERS TO ADOPT AS AMENDED TO INCLUDE IN THE STAFF RECOMMENDATION THE AUTHORIZATION FOR THE CITY AUDITOR TO ACCEPT, APPROPRIATE AND EXPEND FUNDS IN AN AMOUNT NOT TO EXCEED \$100,000 FROM SAN DIEGO GAS AND ELECTRIC COMPANY FOR THE VIA DE LA VALLE BIKEWAY PROJECT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-108: Revised Cooperative Agreement with Caltrans for Relinquishment of 36th Street.

(Southeastern San Diego, Mount Hope, and Mountain View Community Areas.
District 4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-828) ADOPTED AS RESOLUTION R-300154

Authorizing the City Manager to execute a Cooperative Agreement with the California Department of Transportation, for the relinquishment to the City of 36th Street between Imperial Avenue and Market Street, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the addition to the FY 2005 Capital Improvements Program of CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street;

Authorizing the City Auditor and Comptroller to establish a new special fund for the purpose of depositing any California Department of Transportation funds received hereunder, contingent upon the execution of said Cooperative Agreement;

Authorizing an increase in the amount of \$50,000 in the Fiscal Year 2005 Capital Improvements Program budget in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street;

Authorizing and accepting \$50,000 from the California Department of Transportation and depositing said funds in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street;

Authorizing the City Auditor and Comptroller to appropriate and expend \$50,000 from CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street, for the purpose of plant establishment as defined in the

Standard Specifications for the Construction of Local Streets and Roads, contingent upon the City Auditor and Comptroller first certifying that the funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

On May 24, 2004, Council approved a Cooperative Agreement with Caltrans for the relinquishment of 36th Street between Market Street and Imperial Avenue to the City. This street was built by Caltrans as mitigation for the closure of the I-15/Imperial Avenue interchange. As part of the agreement, Caltrans agreed to contribute \$50,000 to the City.

The approved agreement contained wording that suggested that the \$50,000 State contribution was to be used to maintain 36th Street, an inappropriate use of State funds per Caltrans policy. The agreement has been revised to indicate that the State funds are to be used for plant establishment and monitoring of the landscaping which is part of the 36th Street project.

Council action is required to approve the revised Cooperative Agreement and to accept, appropriate, and expend the \$50,000 contribution.

FISCAL IMPACT:

Accepting \$50,000 from the State of California and depositing said funds in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street. After the State funds have been fully expended for the approximately 3-year establishment period, future maintenance costs will impact the Park and Recreation Department's operating budget in an amount estimated at \$17,500 annually.

Mendes/Boekamp/LVW

Staff: Larry Van Wey – (619) 533-3005

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-109: Amendments to Cooperative Agreement for State Route 905 Right of Way.

(Otay Mesa Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-813) ADOPTED AS RESOLUTION R-300155

Authorizing the City Manager to execute Amendment No. 1 to Caltrans Agreement No. 11-0556, for the right-of-way acquisition for State Route 905, under the terms and conditions together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to execute Amendment No. 2 to Caltrans Agreement No. 11-0556, for the right-of-way acquisition for State Route 905, under the terms and conditions together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to request advance funding from SANDAG through the commercial paper program in the amount of \$4,000,000;

Authorizing the City Manager to execute any necessary documents relating to receipt of said funds from SANDAG;

Declaring that the City will be responsible for paying its share of interest and administrative costs for the TransNet commercial paper program, and that these costs will be deducted from normal TransNet payments, and setting the repayment of these funds on schedule as the first priority use of future TransNet revenues;

Declaring that the City will repay to SANDAG the principal amount of \$4,000,000 prior to Fiscal Year 2008 from TransNet/Local Streets funds;

Authorizing the expenditure of a total amount not to exceed \$2,633,760 (\$38,440 in Fiscal Year 2005, \$115,320 in Fiscal Year 2006, and \$2,480,000 in Fiscal Year 2007) from CIP-52-697.0, State Route 905, from the Otay Mesa FBA East Fund 79013, for the purpose of providing funds for the above referenced Project in accordance with the latest Council-Approved Otay Mesa Public Facilities Financing Plan;

Authorizing the expenditure of a total amount not to exceed \$1,614,240 (\$23,560 in Fiscal Year 2005, \$70,680 in Fiscal Year 2006, and \$1,520,000 in Fiscal Year 2007) from CIP-52-697.0, State Route 905, from the Otay Mesa FBA West Fund 79014, for the purpose of providing funds for the above referenced Project in accordance with the latest Council-Approved Otay Mesa Public Facilities Financing Plan;

Authorizing the City Auditor and Comptroller, upon direction of the City Manager, to reallocate the funding sources between TransNet and Commercial Paper funded projects as may be appropriate to maximize the use of TransNet cash and reduce the use of Commercial Paper funding for CIP-52-396.0, State Route 905/Right-of-Way Acquisition/Protection;

Authorizing the expenditure of an amount not to exceed \$3,100,000 from CIP-52-396.0, State Route 905/125 Right-of-Way Acquisition/Protection, Fund 30306, TransNet, the purpose of right-of-way acquisition for State Route 905;

Authorizing the expenditure of an amount not to exceed \$100,000 from CIP-52-396.0, State Route 905/125 Right-of-Way Acquisition/Protection, Fund 30306, TransNet, for the purpose of environmental services for State Route 905;

Authorizing the transfer of an amount not to exceed \$200,000 from CIP-52-396.0, State Route 905/125 Right-of-Way Acquisition/Protection, Fund 30306, TransNet, to CIP-52-619.0, Otay Mesa Road Widening;

Authorizing the expenditure of an amount not to exceed \$200,000 from CIP-52-619.0, Otay Mesa Road Widening, Fund 30306, TransNet;

Authorizing the transfer of an amount not to exceed \$600,000 from CIP-52-396.0, State Route 905/125 Right-of-Way Acquisition/Protection, Fund 30306, TransNet, to CIP-52-682.1, Otay Mesa Truck Route;

Authorizing the appropriation and expenditure of an amount not to exceed \$600,000 from CIP-52-682.1 Otay Mesa Truck Route, Fund 30306, TransNet;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring the authorization to approve the appropriation and expenditure of these funds does not constitute a decision to proceed with construction of these projects as proposed and further does not foreclose the analysis of alternatives or mitigation measures that would ordinarily be a part of environmental or permit review.

CITY MANAGER SUPPORTING INFORMATION:

On June 5, 1998, the City entered into a Cooperative Agreement with Caltrans for the acquisition of right of way for future State Route 905. In that document, the City agreed to contribute the amount of \$4,000,000 from the Otay Mesa East Financing Plan in the form of an Escrow Agreement. It has now been determined by the City and Caltrans that an Escrow Agreement is no longer necessary, and that a cash contribution will be made by the City. This contribution will be in the form of a loan from TransNet. Interest on this loan of \$186,000 per year will be paid annually by the Otay Mesa East and Otay Mesa West FBAs, with the principal to be repaid from the two FBAs by the end of Fiscal Year 2007.

On March 1, 2004, Caltrans agreed to credit \$300,000 in environmental services performed by the City as part of the project toward the City's \$4,000,000 contribution. Caltrans has also agreed to credit the City an additional \$600,000 for work the City is performing on the Otay Mesa Truck Route Bypass. These two credits reduce the City's cash contribution to Caltrans to \$3,100,000.

City Council approval is being sought for the two amendments which credit the City \$900,000 toward the original \$4,000,000 Caltrans agreement, of which \$100,000 is for environmental services, \$600,000 is for City work on the Otay Mesa Truck Route Bypass, and \$200,000 is for work on the Otay Mesa Road Widening project. Approval is also sought for transfer of \$600,000 to Otay Mesa Truck Route, and approval of a loan of TransNet to the Otay Mesa FBAs.

FISCAL IMPACT:

This action provides for an advance of \$4,000,000 of TransNet to Otay Mesa East and Otay Mesa West FBAs with the provision that these FBAs will reimburse the TransNet \$4,248,000 in

principal and interest by Fiscal Year 2007. This action also provides for a transfer of the credited amount of \$600,000 to the Otay Mesa Truck Route, \$200,000 to Otay Mesa Road Widening, and \$100,000 for environmental services related to SR-905.

Mendes/Boekamp/LVW

Staff: Larry Van Wey – (619) 533-3005)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



* ITEM-110: License Agreement with San Diego Family Housing, LLC, for Police Department Office Space located at 4439-4440 Olney Street.

(Pacific Beach Community Area. District 6.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-697) ADOPTED AS RESOLUTION R-300156

Authorizing the City Manager to execute a 5-year license agreement with San Diego Family Housing, LLC, a California limited liability company, for the Premises located at 4439-4440 Olney for Police Department office space, for no rent, commencing October 1, 2004, on the terms and conditions substantially as set forth in the License Agreement.

CITY MANAGER SUPPORTING INFORMATION:

The Police Department has operated a storefront office at 4439-4440 Olney Street site since July 1999. On September 30, 2003, the Department of the Navy, the property owner, terminated the original license agreement with the City in order to execute a new license with San Diego

Family Housing, LLC (SDFH). They currently act as agent for the Navy in administration of the Navy's surrounding Admiral Hartman Housing Complex, which includes this facility. The licensed premises consists of an administrative office building, a storage structure, and a fenced 40-space parking lot/storage yard on a 1 acre parcel. The facilities were the former Hartman Recreation Center and Sport Court Building.

The Police Department is proposing to enter into a license for the space with the Navy's contractor under the following terms:

TERM: Five (5) years - October 1, 2004 to September 30, 2009.

USE: Police storefront office and storage facility to write reports, conduct minor investigations, hold community meetings, conduct briefings and perform other forms of daily police work, including the storage of police vehicles consisting of bikes, all terrain vehicles, and boats used in beach operations.

SIZE: Office Building (Bldg. 440): 2,572 square feet; Storage Building (Bldg. 439): 2,356 square feet; and a 40 space parking/storage lot on an approximately 1 acre parcel.

RENT: None

SERVICES TO BE PROVIDED BY LICENSOR: Water, sewer, gas, electricity.

SERVICES TO BE PROVIDED BY CITY: Any other services relating to the use of the licensed premises. This includes a pro rata share of janitorial expenses costing \$3,120 annually.

FISCAL IMPACT:

\$3,120 in janitorial expenses per year.

Herring/Griffith/JPA

Staff: Jim Anthony – (619) 533-6509

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-111: Office Space Sublease Agreement with the San Diego Data Processing Corporation for the Treasurer's Financing Services Division at Civic Center Plaza.

(See City Manager Report CMR-05-044. Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-867) RETURNED TO CITY MANAGER, WITH DIRECTION

Authorizing the City Manager to execute the Sublease Agreement with the San Diego Data Processing Corporation, approximately 7,938 square feet of office space on the fourth floor of the Civic Center Plaza Building, commencing on April 1, 2005, and terminating on July 31, 2007, at an initial monthly rate of \$11,113.20, under the terms and conditions set forth in this Sublease Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$278,760 from Fund No. 100, Department 601, for FY 2005.

Aud. Cert. 2500745.

Staff: James Braun – (619) 533-6517

FILE LOCATION: LEAS-San Diego Data Processing Corp.

COUNCIL ACTION: (Time duration: 2:56 p.m. – 3:15 p.m.)

MOTION BY FRYE TO RETURN TO THE CITY MANAGER WITH DIRECTION THAT NO ACTION BE TAKEN ON THIS ITEM UNTIL A NEW CITY AUDITOR HAS BEEN HIRED AND IS IN PLACE.

ACCEPT COUNCIL MEMBER MADAFFER'S RECOMMENDATION THAT THE CITY MANAGER PROVIDE A REPORT TO THE CITY COUNCIL IN 60 DAYS REGARDING 1) WHAT THE LONG- AND SHORT-TERM NEEDS ARE OF THE

SUBLEASE ARRANGEMENT WITH SAN DIEGO DATA PROCESSING; 2) WHETHER OUTSIDE OR NON-CITY ENTITIES WOULD BE ABLE TO LEASE SPACE AND HOW THAT FACTORS INTO THE RATE STRUCTURE; AND 3) WHETHER SAN DIEGO DATA PROCESSING CORPORATION COULD SUBLEASE SPACE TO NON-CITY ENTITIES.

Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-112: First Amendment to Agreement with the San Diego Unified School District (SDUSD) for the "6 to 6" Extended School Day Funding.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-856) ADOPTED AS RESOLUTION R-300157

Authorizing the City Manager to accept the State of California Department of Education grant funds awarded to San Diego's "6 to 6" Program;

Authorizing the City Manager to enter into agreements to expend these funds, beginning Fiscal Year 2005 through 2009;

Authorizing the City Manager to execute the First Amendment to the Agreement Between the San Diego Unified School District and the City of San Diego, reflecting the additional grant funds.

CITY MANAGER SUPPORTING INFORMATION:

On July 26, 2004, City Council adopted R-299482 to accept State of California Department of Education (CDE) grant funds for the "6 to 6" Program for Fiscal Year 2005.

Each year, state and federal grant funds for San Diego's "6 to 6" program are passed on to the City of San Diego via Memorandum of Understanding (MOU) with the San Diego Unified School District (SDUSD) for the City to administer and to provide "6 to 6" Extended School Day programs in District elementary and middle schools.

SDUSD was recently awarded 21st Century Community Learning Centers (21st CCLC) grant funds in the amount of \$2,719,781 for the period May 5, 2004 through June 30, 2005. This will grant fund "6 to 6" Programs at eighteen schools and expand student enrollment at fifteen schools currently receiving grant funds. The District and the City received preliminary notification in the spring of 2004 that a grant award was pending; official notification from the state came in December 2004. Service levels for Fiscal 2005 were established in anticipation of this funding being received. This action finalizes the process for the funds transfer.

As a result of this action, the total amount of grant funding transferred to the City from SDUSD for the period May 5, 2004 through June 30, 2005 will increase from \$14,036,550 to \$16,756,331. The funds transfer was approved on the Board of Education's consent agenda on February 8, 2005. The City's Fiscal 2005 budget allocation for "6 to 6" is \$3.1 Million from the general fund and will continue to be for "6 to 6" programs at twenty-seven public schools that do not qualify for grant funds. To be eligible for grant funds, 40% of the overall school population must meet the "Free and Reduced Lunch" low income standard established by the California Department of Education. In the current fiscal year, the City also manages \$1.34 million in state and federal grants on behalf of other school districts.

Thirty-three SDUSD schools will benefit from the additional grant funds. Newly grant funded schools are: Alcott, Bethune, Cabrillo, Dana, Doyle, Fletcher, Foster, Fulton, Grant, Hawthorne, King/Chavez, Mason, Preuss, Promise Charter, Sequoia, Spreckels, Vista Grande, Walker, and Zamorano. Sites that are receiving additional grant funds are: Baker, Balboa, Bayview Terrace, Chollas/Mead, Darnall, Florence, Garfield, Johnson, Kennedy, King, McKinley, Roosevelt, Toler, and Washington.

Overall, the new grant funding will bring the "6 to 6" enrollment to approximately 24,000 spaces citywide. This is roughly the same number of program spaces allotted in Fiscal 2004 because of a similar offsetting number of slots lost due to budget constraints. Enrollment can be expanded at these sites, utilizing existing wait lists. 21st Century grant funds are awarded for a five-year period.

San Diego's "6 to 6" Program enjoys a national reputation for quality in before and after school programming, and because of the unique collaborative approach achieved through multi-agency partnerships.

Frazier/Cunningham/JHD

Staff: June Dudas – (619) 236-6312

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:46 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-113: Easement Deed Conveying to SBC/Pacific Bell Telephone Company an Easement for Underground Facilities at Montgomery Field Airport. (Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-799) ADOPTED AS RESOLUTION R-300158

Authorizing the City Manager to execute an easement deed conveying to Pacific Bell Telephone Company, a corporation, an easement and right of way in, upon, over, under and across Lots 17, 24 and 25 of New Riverside subdivision as said lots are shown on said subdivision, filed for the record as Map No. 679 on the 19th day of February 1915, in the Office of the County Recorder, as more particularly described in said easement deed to erect, construct, modify, improve, reconstruct, relocate, repair, maintain and use the underground facilities and appurtenances for the transmission and distribution of telecommunications and related purposes as set forth in the easement deed.

CITY MANAGER SUPPORTING INFORMATION:

SBC/Pacific Bell Telephone Company has requested an easement for underground facilities and appurtenances affecting City property along an approximately 1,108 x 6 foot segment of Montgomery Field Airport. The existing telecommunication lines were buried without conduit and have deteriorated. The lines must be replaced in order to maintain service to the City terminal building at the airport. The easement will provide the necessary rights for SBC/Pacific Bell Telephone Company to replace and maintain a new subsurface communication line parallel to the existing one. The total area of the easement is approximately 6,647 square feet.

The easement has been estimated by City valuation staff to have a nominal value of \$500.

Since this project will exclusively serve a City-owned facility, no compensation is required for the easement. An Easement Processing Fee of \$1,590 has been received.

FISCAL IMPACT:

Processing Fee of \$1,590 will be deposited to Fund 41100.

Herring/Griffith/CPA

Staff: Christian P. Anderson – (619) 236-7073

FILE LOCATION: DEED F-9888

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:39 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-114: Easement Deed Conveying to San Diego Gas and Electric Company an Easement for Underground Electrical Transmission Facilities at Montgomery Field Airport.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-800) ADOPTED AS RESOLUTION R-300159

Authorizing the City Manager, or his designee, to execute an easement deed conveying to San Diego Gas & Electric Company, a corporation, an easement and right of way in, upon, over, under and across that portion of Lot 1 of the Highlands, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 284, filed in the Office of the County Recorder of said County, March 16, 1887, as more particularly described in said easement

deed, to erect, construct, modify, improve, reconstruct, relocate, repair, maintain and use the underground facilities and appurtenances for the transmission and distribution of electricity.

CITY MANAGER SUPPORTING INFORMATION:

San Diego Gas and Electric Company (SDG&E) has requested an easement for underground electrical transmission facilities and appurtenances affecting City property along an approximately 54 x 10 foot segment of Montgomery Field Airport. It is necessary to replace and slightly extend the existing obsolete facilities in order to continue to provide electrical service to the airport. The easement will provide the necessary rights for SDG&E to replace and maintain new subsurface electrical transmission facilities that service Montgomery Field Airport. The total area of the easement is approximately 540 square feet.

The easement has been estimated by City valuation staff to have a nominal value of \$500.

Since this project will exclusively serve Montgomery Field Airport, no compensation is required for the easement. An easement processing fee of \$1,590 has been received.

FISCAL IMPACT:

Processing fee of \$1,590 has been deposited in Fund 41100.

Herring/Griffith/CPA

Staff: Christian Anderson – (619) 236-7073

FILE LOCATION: DEED F-9889

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:39 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-115: Grant Application to the State of California Resources Agency for Otay Valley Regional Park Staging Area and Trail.

(Otay Mesa Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-851) ADOPTED AS RESOLUTION R-300160

Authorizing the City Manager, or his representative, to apply to the State of California Resources Agency for grant funds in an amount not to exceed \$1,000,000 to provide for the design and construction of a regional staging area for a trail system in Otay Valley Regional Park, including a restroom, security lighting, shade structure/interpretive kiosks, drinking fountain, and other related components located in Otay Valley Regional Park at Beyer Boulevard and the San Diego River (Project);

Authorizing the City Manager, or his representative, to take all necessary actions to secure grant funding from the State of California;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds if grant funding is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the grant;

Amending the Fiscal Year 2005 Capital Improvements Program by adding CIP-29-424.0 for Otay Valley Regional Park - Beyer Boulevard Staging Area and Trail;

Amending the Fiscal Year 2005 Capital Improvements Program Budget by increasing the budget amount not to exceed \$1,000,000 for CIP-29-424.0, Otay Valley Regional Park - Beyer Boulevard Staging Area and Trail;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not exceed \$1,000,000 for CIP-29-424.0, Otay Valley Regional Park - Beyer Boulevard Staging Area and Trail, contingent upon receipt of a fully executed grant agreement;

Certifying that the City Council understands the assurances and certification in the application form;

Certifying that the City Council has, or will have, sufficient funds to operate and maintain the project;

Certifying that the City Council has reviewed and understands the special and general provisions contained in the sample project agreement shown in the procedural guide.

CITY MANAGER SUPPORTING INFORMATION:

The voters of California passed the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40) on November 5, 2002. It provides \$70 million for acquisition and development of river parkways, pursuant to Section 78682.2 of the Water Code. Funding can be used for a number of riparian and riverine projects, but cannot be used for active recreation development. The State Resources Agency has been designated as the lead agency for administration of this program, and the procedures require a resolution certifying the approval of the grant request by the applicant's governing board.

The State of California 2002-2003 budget allocated \$1,000,000 to the Otay River Parkway. The City of San Diego submitted a grant application on December 4, 2003 for a staging area located at Beyer Way (R-298588). The project met all criteria specified in the procedural guidelines; however, the State Resources Agency requested the City of San Diego to submit a proposal at another site with lower infrastructure costs. The City of San Diego and the State Resources Agency staff have conducted several site visits along the Otay River and determined that a staging area and trail at Beyer Boulevard would best fit the intent of the grant program.

Once the grant is secured, the City of San Diego will design and construct improvements to the staging area and construct a trail in Otay Valley Regional Park at Beyer Boulevard and the San Diego River. The staging area, located on City of San Diego property, will include a restroom, security lighting, shade structure/interpretive kiosks and a drinking fountain. The trail will go across property owned by the City of San Diego, the City of Chula Vista and the County of San Diego, the three agencies in the Otay Valley Regional Park Joint Exercise of Power Agreement (JEPA). The City of San Diego will operate and maintain the staging area and trails. This action is for the grant application only. Construction will require further environmental review.

FISCAL IMPACT:

The grant application requests \$1,000,000 for Otay River Parkway. This project is the design and construction of a staging area and trail. The title of CIP-29-424.0, Otay Valley Regional Park - Beyer Way Staging Area will be revised during the Fiscal Year 2006 CIP budget process to Otay

Valley Regional Park - Beyer Boulevard Staging Area and Trail, reflecting the new site and scope of work.

Herring/Oppenheim/AP

Staff: Heidi Lang – (619) 525-8218

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-116: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-409) ADOPTED AS RESOLUTION R-300161

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- * ITEM-117: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-829) ADOPTED AS RESOLUTION R-300162

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L-State of Emergency Due to Economic
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- * ITEM-118: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-833) ADOPTED AS RESOLUTION R-300163

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L-Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)
CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-not present, Mayor Murphy-nay.



ITEM-119: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-589) ADOPTED AS RESOLUTION R-300164

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:47 p.m. – 2:53 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-120: Appointment of John Chalker to Serve as a Member of the Board of Commissioners to the City of San Diego's Public Facilities Financing Authority.

(See memorandum from Mayor Murphy dated 2/17/2005, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-874) ADOPTED AS RESOLUTION R-300165
Council confirmation of the appointment by the Mayor of the City of San Diego of John Chalker, to serve as a member of the Board of Commissioners of the Public Facilities Financing Authority, and shall serve at the pleasure of the City Council and the Redevelopment Agency (Agency) of the City of San Diego and may be removed at any time, with or without cause, at the sole discretion of the City Council and the Agency, replacing Gordon L. Gerson, who has resigned.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:34 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-200: Proposed Amendments to the City's Land Development Code and Local Coastal Program.

(See City Manager Report CMR-05-011. Citywide.)

(Continued from the meeting of February 14, 2005, Item 51, at Councilmember Maienschein's request, for further review by the Community Planning Chairs.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/1/2005, Item S501. (Council voted 8-1. Councilmember Frye voted nay):

(O-2005-83 Cor. Copy) ADOPTED AS ORDINANCE O-19360 (New Series)

Amending Chapter 11, Article 2 and Chapter 11, Article 3 of the San Diego Municipal Code by amending Division 1, Section 112.0102 and 113.0103.

Staff: Jim LoBue (619) 533-5263.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 7:19 p.m. – 7:25 p.m.)
MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Young-yea, Maienschein-not present, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-201: Fiscal Year 2005 Financial Review and Status Report.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-766) ADOPTED AS RESOLUTION R-300166, WITH DIRECTION

Accepting the Fiscal Year 2005 Financial Review and Status Report.

Staff: Tom Haynes – (619) 236-6072

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:32 p.m. – 4:46 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION BY COUNCIL MEMBER YOUNG THAT THE CITY MANAGER NOT ONLY CONSIDER BALANCING THE BUDGET WITH POTENTIAL LAYOFFS AND SERVICE REDUCTIONS BUT TO ALSO INCLUDE: 1) CONSIDER OPTIONS FOR RAISING REVENUE AND PREVENTING REDUCTIONS IN SERVICES AND/OR PERSONNEL; 2) RETURN TO THE COUNCIL WITH AN UPDATE ON ASSERTIVE METHODS FOR COLLECTING REVENUES OWED TO THE CITY BY OTHER AGENCIES; 3) PREPARE AND PRESENT A REPORT TO THE MAYOR AND COUNCIL REGARDING A VIABLE SUGGESTIONS AWARD PROGRAM, INCLUDING RECOMMENDATIONS TO RAISE THE PROFILE OF A PROGRAM THAT WOULD BE BENEFICIAL FOR ALL, AND THAT THE AWARDEES WOULD BE HONORED BEFORE THE CITY COUNCIL ON A MONTHLY BASIS AND WHERE THERE WOULD BE AN INCREASE OF THE FINANCIAL AWARDS THAT ARE PRESENTED TO INDIVIDUALS WHO FIND WAYS TO SAVE THE CITY MONEY. FOR EXAMPLE, IF SOMEONE FINDS A SOLUTION THAT WOULD SAVE THE CITY \$1 MILLION, THERE SHOULD BE A SIGNIFICANT PERCENTAGE THAT SHOULD BE AWARDED TO THAT CITY WORKER.

ACCEPT COUNCIL MEMBER FRYE'S RECOMMENDATION THAT, REGARDING THE COMING FISCAL YEAR, THE CITY MANAGER HAVE AVAILABLE FOR THE MARCH 7 AND MARCH 14 MEETINGS THE AMOUNT OF MAJOR CATEGORICAL ITEMS SUCH AS: 1) THE COST RELATED TO THE PENSION FUND, IN ORDER TO HAVE SOME IDEA OF THE AMOUNT THAT REMAINS FROM THAT FUND; 2) THE COST FOR THE RETIREE HEALTH PROGRAM, IN ORDER TO HAVE SOME IDEA OF THE AMOUNT THAT REMAINS; 3) WHAT THE BOND DEBT WILL BE; 4) A PROPOSED FIVE-YEAR FINANCIAL PLAN WHERE THE MAJOR AREAS OF CITY EXPENSES WILL BE DEFINED; 5) AREAS WHERE THE CITY WOULD HAVE SOME "WIGGLE ROOM" SHOULD IT BE THE COUNCIL'S DESIRE TO CHANGE EXPENSE PRIORITIES OR ADJUST THESE REVENUES. REQUEST THAT THESE AMOUNTS THAT ARE TO BE EXPENDED EACH YEAR BE PRESENTED IN A VERY SIMPLE MANNER, PERHAPS ON A SINGLE SHEET OF PAPER. DIRECT THAT SERVICE-LEVEL AGREEMENTS BE LOOKED AT AND AUDITED TO ENSURE THAT THE DESIGNATED FUNDS ARE ACTUALLY BEING USED FOR WHAT THEY WERE INTENDED.

ACCEPT COUNCIL MEMBER ATKINS' RECOMMENDATION THAT, IN ORDER THAT THE PUBLIC UNDERSTANDS THE COUNCIL'S DECISIONS, THE CITY MANAGER MAKE CLEAR WHAT SERVICES IN THE CITY ARE BEING MAINTAINED IN ORDER TO PUT \$20 MILLION INTO COVERING THE GENERAL FUND BUDGET, AND WHAT SERVICES THE CITY WILL BE RESTORING. DIRECT THAT THE CITY MANAGER IDENTIFY WHAT DEBT IS

BEING RETIRED, WHAT AVAILABLE REVENUE THERE IS TO THE CITY BY RELIEVING THE CITY OF THAT DEBT, AND HOW THOSE REVENUES WOULD BE APPLIED TO CURRENT BASIC SERVICES.

Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-202: Two actions related to San Diego Fire/Rescue Helicopter Procurement.

(See City Manager Report No. CMR-05-048.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-868) ADOPTED AS AMENDED AS RESOLUTION R-300167

Authorizing the City Manager to award a contract to Eagle Copters to acquire, inspect, repair as necessary, and deliver one refurbished Bell 212HP Fire/Rescue Helicopter;

Authorizing the City Manager to finance one Bell 212HP Fire/Rescue Helicopter under the Equipment and Vehicle Financing Program over a period of seven years or by cash funding with the intent to reimburse when financing is available;

Authorizing the City Manager to expend \$32,412 for the purpose of hiring three Fire/Rescue helicopter pilots for the final month of Fiscal Year 2005.

Subitem-B: (R-2005-871) ADOPTED AS AMENDED AS RESOLUTION R-300168

Declaring that the City finds and determines that the foregoing recitals are true and correct;

Declaring that this Declaration of Intent is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the United States Treasury Regulations. This Declaration of Intent does not bind the City to make any expenditure, incur any indebtedness, or proceed with the purchase of the Helicopter;

Declaring the City's official intent to use proceeds of indebtedness to reimburse itself for Reimbursement Expenditures;

Certifying that this Declaration of Intent shall take effect from and after its adoption.

Aud. Cert. 2500759.

Staff: Assistant Chief John Jondall – (619) 533-4401

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 4:53 p.m. - 5:24 p.m.)

MOTION BY ATKINS TO ADOPT AS AMENDED BY COUNCIL MEMBER FRYE THAT: 1) RESOLUTION R-2005-868 INCLUDE LANGUAGE DECLARING THAT THE CITY COUNCIL HAS THE OPTION TO REIMBURSE ITSELF OUT OF PROCEEDS IF THE CHOICE IS TO PROCEED WITH SOME FORM OF DEBT FINANCING BUT THAT THERE IS NO COMMITMENT TO DO SO; 2) AUTHORIZE THE CITY MANAGER TO COMMIT THE FULL PURCHASE PRICE OF \$4 MILLION IN THE FY 2006 BUDGET TO PURCHASE THE HELICOPTER, MAKING THIS PURCHASE ONE OF THE BUDGET PRIORITIES; 3) REGARDING THE FISCAL IMPACT, REFLECT THE SAME DOLLAR AMOUNT IN RESOLUTION R-2005-868 AS IS STATED IN THE MANAGER'S REPORT, THE BACK-UP MATERIAL AND THE 1472 FORM.

ACCEPT COUNCIL MEMBER MAIENSCHIN'S RECOMMENDATION THAT THE CITY MANAGER AND THE CITY ATTORNEY WORK TOGETHER TO ENSURE THAT THE LANGUAGE IN THE RESOLUTIONS NOW AND IN THE FUTURE MATCH UP WITH ALL BACKUP MATERIAL ASSOCIATED WITH A PARTICULAR ITEM.

Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-203: Second Amended and Restated Agreement with Hawkins Delafield & Wood, LLP for General Disclosure Counsel Services.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-869) CONTINUED TO MONDAY, MARCH 7, 2005

Authorizing the Second Amended and Restated Agreement with Hawkins Delafield & Wood, LLP for general disclosure counsel services and authorizing an additional expenditure of \$500,000.

CITY MANAGER SUPPORTING INFORMATION:

The Report on Investigation dated September 16, 2004, prepared by Vinson & Elkins L.L.P. recommended that the City rely on a single, well-qualified firm to provide disclosure counsel services in order to provide for continuity in the City's disclosure materials and a greater accountability on the part of disclosure counsel. The City accepted that recommendation and engaged the Hawkins Delafield & Wood LLP [Firm] to serve as the City's general disclosure counsel. Such services include, but are not limited to, advising the City regarding its disclosure obligations under federal securities laws, advising the City regarding the provisions of the San Diego Municipal Code pertaining to disclosure; participating in the Disclosure Practices Working Group; conducting training and seminars for the City regarding federal securities laws; preparing standards and procedures for the City's disclosure practices; assist the City in finalizing and launching a City investor web page; and provide other legal services as requested by the City Attorney's office. The Firm proposed to provide such services on an hourly basis. The City has determined to accept the Firm's proposal and retain it for the above-referenced purposes. This Second Amended and Restated Agreement for General Disclosure Counsel Services increases the compensation to be paid to the Firm by an additional \$500,000; the total amount of the contract with this amendment is \$750,000.

FISCAL IMPACT:

The City shall compensate Hawkins Delafield and Wood LLP based on an hourly rate for the services provided. This second amended and restated agreement increases such compensation by \$500,000. Pursuant to the agreement, as amended and restated, the maximum amount to be paid to Hawkins Delafield and Wood LLP shall not exceed \$750,000, including expenses. These costs shall be shared among various bond-financed projects.

Kelly Salt

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:24 p.m.)

MOTION BY MAIENSCHIN TO CONTINUE TO MARCH 7, 2005 AT THE REQUEST OF THE CITY ATTORNEY FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-204: Fourth Amendment to Retention Agreement with KPMG, LLP to Perform an Audit of the City's FY 2003 Financial Statements.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-872) ADOPTED AS RESOLUTION R-300169

Authorizing the Fourth Amendment to Retention Agreement with KPMG, LLP to Perform an Audit of the City's FY 2003 Financial Statements.

CITY MANAGER SUPPORTING INFORMATION:

On January 27, 2004, the City filed a voluntary financial disclosure concerning, in part, certain errors and correctible statements in the City's Fiscal Year 2002 Comprehensive Annual Financial Report (CAFR). As a result, the Fiscal Year 2003 CAFR has not been finalized and issued. The City Manager retained the firm KPMG, LLP to perform the audit of the City's Fiscal Year 2003 basic financial statements, which are included in the CAFR, before the Fiscal Year 2003 CAFR is finalized and issued.

The preliminary estimate for the cost to initiate the audit was approximately \$500,000. On July 12, 2004, the Mayor and City Council authorized the first amendment with KPMG to increase the not-to-exceed amount to \$800,000. Subsequently, the City Council authorized second and third amendments with KPMG, on August 9 and November 23, 2004, respectively, bringing the total not-to-exceed amount to \$1,700,000. At the time the third amendment in the amount of \$500,000 was issued, invoices in the amount of \$327,498 were already outstanding, leaving less than \$170,000 available to fund further audit activities.

Pursuant to accounting standards and practices, the city needs to continue to conduct additional investigation beyond the scope of the Vinson & Elkins (V&E) Report on Investigation. The additional investigation is necessary because the City's and KPMG's obligations with respect to the allegations of illegal conduct in the context of an audit are broader than the investigation and reporting on federal disclosure law violations, for which the V&E Report was commissioned, and the additional investigation will address legal issues and allegations of wrongdoing that were not the subject of the V&E Report. The City has been working cooperatively with KPMG on the scope of the additional investigations.

Given the continued importance of a thorough review, the City Manager is requesting that the Mayor and City Council authorize a fourth amendment with KPMG for an additional \$500,000 for a total not-to-exceed contract amount of \$2,200,000.

Lisa Irvine

Staff: Martin Kane – (619) 236-6882

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:24 p.m. – 5:44 p.m.)
MOTION BY ZUCCHET TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-205: In the matter of:

Council Discussion Regarding the Strong Mayor Transition Work Plan.


TRAILED TO TUESDAY, MARCH 1, 2005

(See memorandum from Mayor Murphy dated 2/22/2005 and 2/18/2005; and memorandum from Councilmember Young dated 2/22/2005. See City Manager Report CMR-05-049.)

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:56 p.m. – 6:58 p.m.)

6:55 p.m. – 6:58 p.m.)

 * [ITEM-S400:](#) Appointment of Edward S. Fletcher to Serve as a Member of the Civil Service Commission.

(See memorandum from Mayor Murphy dated 2/23/2005, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:


(R-2005-764) ADOPTED AS RESOLUTION R-300170

Council confirmation of the appointment by the Mayor of the City of San Diego of Edward S. Fletcher, to serve as a member of the Civil Service Commission, for a term ending January 9, 2010, replacing Daniel E. Eaton, whose term has expired.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:29 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

 [ITEM-S401:](#) Consultant Selection for the Mayor-Council Form of Government Transition Process.

(See City Manager Report CMR-05-049.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-891) TRAILED TO TUESDAY, MARCH 1, 2005

Authorizing the City Manager to execute one or more agreements with the selected consultant(s) for the Mayor-Council form of government transition process, in an amount not to cumulatively exceed \$150,000.

CITY MANAGER SUPPORTING INFORMATION:

On January 24, 2005, the Mayor and City Council directed the City Manager to issue a Request for Qualifications ("RFQ") for consulting services for the transition process to the Strong Mayor/Strong Council form of government and to commence the selection process.

The RFQ was issued on Friday, January 28, 2005 and responses were due on February 11, 2005. Seven consulting firms responded to the RFQ and six were interviewed. A selection committee was formed and included representatives from the Mayor's office, the City Council, City Attorney, City Manager, the League of Women Voters, San Diego State University and a local government relations consulting firm.

The selection committee ranked the top three consulting firms and formulated four alternatives to present to the City Council for their consideration and approval.

1. Select the top ranked consultant (Management Partners Incorporated) and authorize the City Manager to enter into a contract not to exceed \$150,000.
2. Select one or more of the top three ranked consultants to work on particular tasks outlined in the transition plan (to be determined on the basis of the firm's expertise), and direct the City Manager to enter into separate and distinct contracts with each, not to cumulatively exceed \$150,000.
3. Direct city staff to conduct a major portion of the transition work, which could be supplemented on an as-needed basis by one or more of the top ranked consultants, and authorize the City Manager to enter into a contract for fixed tasks with a limited set fee.
4. Direct city staff to conduct all of the transition work without assistance from a consulting team.

The Resolution would authorize the City Manager to enter into a contract, under the City Manager authority, with the selected consultant(s) not to exceed \$150,000.

Herring/BAM

Staff: Beth Murray – (619) 236-6720

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:56 p.m. – 6:08 p.m.;
6:55 p.m. – 6:58 p.m.)

ITEM-S402: Second Amendment to Retention Agreement with Vinson & Elkins to Provide Representation Before the Securities and Exchange Commission and to Perform Additional Investigation with Respect to the Audit of the City's FY 2003 Financial Statements.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-) TRAILED TO TUESDAY, MARCH 1, 2005
Authorizing a second amendment to the retention agreement between the City of San Diego and Vinson & Elkins, in an amount not to exceed an additional \$1,200,000, for legal services related to representing the City before the Securities and Exchange Commission, and to perform additional investigation related to the audit by KPMG of the City's FY 2003 Financial Statements.

CITY MANAGER SUPPORTING INFORMATION:

The City previously retained the law firm of Vinson & Elkins (V&E) to prepare an internal report on the City's securities disclosure practices from 1996 through the present, and to provide representation of the City before the federal Securities and Exchange Commission [SEC] with respect to an investigation by the SEC. The total contract amount authorized by the Mayor and City Council for those purposes was in an amount not to exceed \$2.0 million. Vinson & Elkins delivered its report to the City, and has been continuing to represent the City before the SEC, primarily at this time focused on responding to document requests and other requests for information.

The City's FY 2003 CAFR has not been finalized and issued. The City Manager retained the firm of KPMG, LLP to perform the audit of the City's FY 2003 basic financial statements. Pursuant to accounting standards and practices, the City needs to conduct additional investigation beyond the scope of the Vinson & Elkins Report on Investigation to address issues relating to the financial

statements. The additional investigation is necessary because the City's and KPMG's obligations with respect to allegations of illegal conduct in the context of an audit are broader than the investigation and reporting on federal disclosure law violations, the purpose for which the Vinson & Elkins Report was commissioned. The additional investigation will address legal issues and allegations of wrongdoing that were not the subject of the Vinson & Elkins Report.

V&E was retained to perform the additional investigation by the City Manager. The initial contract amount was not to exceed \$250,000, which was amended by the City Council in November 2004 for an additional \$350,000. The City has also retained additional expertise to advise it in these matters, including the law firm of Susman Godfrey, which provides expertise in accounting law, and the firm Chicago Partners, which provides forensic auditing expertise. The City continues to work cooperatively with KPMG on progress of the additional investigation. In addition, the City Attorney is also conducting an investigation of these allegations of wrongdoing. In order to complete the additional investigation, additional funding for V&E's services is required. An additional \$1,200,000 is needed to continue with the additional investigation. Additional sums may be necessary in the future depending on any additional scope and requirements as a result of the ongoing investigation.

Ewell/Vattimo
Aud. Cert. 2500773.

Staff: Martin Kane – (619) 236-6882

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:52 p.m. –4:52 p.m.)



ITEM-S403: Proclamation of Local Emergency Caused by a Series of Severe Winter Storms.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-894) ADOPTED AS RESOLUTION R-300171, WITH DIRECTION

Declaring that a local emergency currently exists, and has existed since February 17, 2005, throughout the City of San Diego and shall be deemed to continue to exist until its termination is proclaimed by the City Council;

Declaring that a copy of this proclamation be forwarded to the Governor of California with the request that he proclaim the City of San Diego to be in a State of Emergency; and further that the Governor request a Presidential Declaration;

Declaring that during the existence of this local emergency the powers, functions and duties of the City Manager of this City shall be those prescribed by State law and the Charter, ordinances, resolutions and approved plans of the City of San Diego in order to mitigate the effects of this local emergency, including the receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance.

CITY MANAGER SUPPORTING INFORMATION:

Conditions of extreme peril to the safety of persons and property have arisen within the City, caused by a series of severe winter storms which began approximately 5:00 a.m., February 17, 2005, and continue to directly affect the safety of persons and property within the City.

The City Manager determined that these emergency conditions were beyond the control of local resources, services, personnel, equipment and facilities and signed a Proclamation of Local Emergency on February 24, 2005. San Diego Municipal Code Section 51.0106(a)(1) authorizes the City Manager to proclaim the existence of a local emergency when the City Council is not in session.

The resolution requests that the Council ratify the proclamation and forward a copy to the Governor of California with the request that he proclaim the City of San Diego to be in a State of Emergency, and further that the Governor request a Presidential Declaration of Major Disaster.

During the existence of this local emergency, the powers, functions and duties of the City Manager of this City shall be those prescribed by State law and the Charter, ordinances, resolutions and approved plans of the City of San Diego in order to mitigate the effects of this local emergency, including the receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance.

The state of local emergency will continue by ratification of the City Council until its termination is proclaimed by the City Council of the City of San Diego.

Ewell/Ghio

Staff: David Harrison – (619) 533-4804

FILE LOCATION: GEN'L-Local Emergency Caused by a Series of Severe Winter Storms

COUNCIL ACTION: (Time duration: 6:59 p.m. – 7:08 p.m.)

MOTION BY YOUNG TO ADOPT WITH DIRECTION BY COUNCIL MEMBER ATKINS THAT, GIVEN THE HEAVY RAINS AND MUD SLIDES IN THE KENSINGTON COMMUNITY, THE CITY MANAGER DETERMINE IF THE CITY RECEIVES FUNDS TO DEAL WITH THESE PROBLEMS IN ORDER TO MITIGATE THE CONCERNS OF THE RESIDENTS.

ACCEPT COUNCIL MEMBER MADAFFER'S RECOMMENDATION THAT THE CITY MANAGER, USING THE GIS DATABASE, PROVIDE AN ESTIMATED COST AND TIME TO PERFORM AN ANALYSIS AT THE CITY THAT REVIEWS EVERY SINGLE STORM DRAIN PIPE THAT RUNS THROUGH THE CITY THAT HAS AN EASEMENT ON PRIVATE PROPERTY, AND IF THAT STORM DRAIN HAS AN EASEMENT ON PRIVATE PROPERTY, DETERMINE WHETHER THAT STORM DRAIN IS IN AN AREA THAT IS ON A SLOPE THAT COULD BE SUBJECT TO FAILURE, WHETHER IT IS ON AN AREA WHERE IF THAT STORM DRAIN WERE TO LEAK IT WOULD PRODUCE AN UNABATED FLOW OF WATER INTO A HILL THAT POTENTIALLY COULD GIVE WAY. IF THERE ARE STORM DRAIN PIPES THAT TRAVERSE PRIVATE PROPERTIES WHERE THE CITY COULD POTENTIALLY FIND ITSELF LIABLE FOR REPAIRS IF THEY BREAK DURING A STORM, THE NATURAL RESOURCES AND CULTURE COMMITTEE IS TO BE MADE AWARE OF THEM. DIRECT THAT LONG- AND SHORT-TERM PLANS BE CREATED TO ADDRESS THESE POTENTIAL PROBLEMS. REQUEST THAT THE ANALYSIS BE PROVIDED TO THE NATURAL RESOURCES AND CULTURE COMMITTEE WITHIN 90 DAYS.

THE CITY MANAGER STATED THAT HE WILL PREPARE AN ANALYSIS OF THE COST AND TIME FOR SUCH A REVIEW AND WHAT FUNDS WOULD BE USED TO UNDERTAKE THE REVIEW, AND THEN BRING THE ANALYSIS BACK TO THE NATURAL RESOURCES AND CULTURE COMMITTEE.

Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 7:27 p.m. in honor of the memory of:

Frank Mendez as requested by Council Member Inzunza.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:26 p.m. – 7:27 p.m.)